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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13
14 UNITED STATES OF AMERICA,) CASE NO. CR 17-00002 JST (TSH)

15 Plaintiff,

16 v.

17 MICHAEL JAMES SPINGOLA,

18 Defendant.

) **DETENTION ORDER**

1 On February 4, 2020, a Petition for Arrest Warrant for Offender Under Supervision was filed,
2 charging the defendant with violating the terms of his supervised released. Dkt. 39. On August 4, 2020,
3 the defendant appeared before the Court for a detention hearing on the violation petition. Dkt. 42. The
4 defendant appeared by Zoom video teleconference from Santa Rita Jail and was in custody at the time of
5 the hearing. The defendant was represented by Joyce Leavitt of the Federal Public Defender's Office.
6 Special Assistant United States Attorney Leah Paisner appeared for the government. The government
7 moved for detention, and the defendant opposed. The defendant moved for release to either his father's
8 house or a halfway house, which both the government and the U.S. Probation Office opposed. At the
9 hearing, the parties submitted proffers and arguments regarding detention, particularly with respect to
10 the defendant's risk of non-appearance.

11 Upon consideration of the facts, proffers and arguments presented, and for the reasons stated on
12 the record, the Court finds that the defendant has failed to establish by clear and convincing evidence
13 that there is any condition or combination of conditions that will reasonably ensure his appearance at
14 future proceedings. Accordingly, the defendant must be detained pending resolution of the violation
15 petition.

16 The present order supplements the Court's findings and order at the detention hearing and serves
17 as written findings of fact and a statement of reasons as required by Title 18, United States Code,
18 Section 3143(a) and Federal Rule of Criminal Procedure 32.1(a)(6). As noted on the record, the Court
19 makes the following finding as the basis for its conclusion that no condition or combination of
20 conditions will reasonably mitigate the defendant's risk of non-appearance:

21 The Court considered as factors supporting its conclusion: (1) the defendant's history of
22 absconding while on federal supervision, including the conduct underlying Charges Two and Three in
23 the petition; (2) the defendant's poor history of complying with his probation officer's instructions while
24 on federal supervision; and (3) the lack of a suitable release plan. The Court also noted that while the
25 defendant has resided in the Bay Area his entire life, his history of violations underscores his high risk
26 of non-appearance at future proceedings. For these and all the reasons and discussion on the record, the
27 Court granted the government's motion for detention, finding that the defendant failed to meet his
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1 burden to demonstrate by clear and convincing evidence that he did not pose a risk of non-appearance.
2 Therefore, the Court therefore concluded that no condition or combination of conditions will reasonably
3 ensure his appearance at future proceedings.

4 Pursuant to 18 U.S.C. § 3143(a), IT IS ORDERED THAT:

5 1. The defendant be, and hereby is, committed to the custody of the Attorney General for
6 confinement in a corrections facility;

7 2. The defendant be afforded reasonable opportunity for private consultation with counsel;
8 and

9 3. On order of a court of the United States or on request of an attorney for the government,
10 the person in charge of the corrections facility in which the defendant is confined shall deliver the
11 defendant to an authorized United States Marshal for the purpose of any appearance in connection with a
12 court proceeding.

13 IT SO ORDERED.

14 DATED: August 6, 2020


HON. THOMAS S. HIXSON
UNITED STATES MAGISTRATE JUDGE